

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITES STATES OF AMERICA,	)	CASE NO. 1:19CR00106
	)	
Plaintiff,	)	JUDGE DONALD C. NUGENT
vs.	)	
	)	
	)	<b><u>DEFENDANT, MALIK ABDUL</u></b>
	)	<b><u>AZIZ SENTENCING</u></b>
	)	<b><u>MEMORANDUM</u></b>
Malik Abdul Aziz	)	
	)	
Defendant.	)	
	)	

Defendant, Malik Abdul Aziz by and through undersigned Counsel, respectfully submits the instant Sentencing Memorandum to support his request for a sentence that is sufficient but not greater than necessary to achieve the statutory goals of sentencing under to Title 18, United States Code §§ 3553(a) and 3661. Counsel respectfully submits the following Memorandum to assist the Court in fashioning Malik Abdul Aziz sentence.

Respectfully Submitted,

/s/ rodger a. pelagalli  
Rodger A. Pelagalli (0034530)  
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*Attorney for Defendant*

## **MEMORANDUM**

### **I. Introduction**

District courts have great discretion in imposing the lowest sentence that will reflect the seriousness of the offense, promote respect for the law, provide just punishment, afford adequate deterrence to criminal conduct, protect the public from future crimes, and provide Malik Abdul Aziz with needed educational or vocational training, medical care, or other correctional treatment. Gall v. United States, 552 U.S. 38 (2007); Kimbrough v. United States, 552 U.S. 85 (2007); United States v. Booker, 543 U.S. 220 (2005); 18 U.S.C. § 3553(a)(2).

### **II. Application of Other Sentencing Factors**

#### **A. Malik Abdul Aziz Personal History and Characteristics**

Malik Abdul Aziz was born on January 10, 1971 in Cleveland, Ohio to Barbara Beaman and Michael Beaman.

#### **B. Educational and Employment Consideration**

Malik Aziz attended and completed Shaw High School, graduating in 1990. He also attended Cuyahoga Community College and Ashland College for 1 year of college credit in business.

**C. Malik Abdul Aziz Has an Extremely Low Likelihood of Recidivism**

Malik Abdul Aziz's Criminal History Score is a 5 based upon a score of 3 for prior criminal conviction as well as committing the instance offense while under a criminal justice sentence for the Cuyahoga County Common Pleas Court case # CR-03-440942-ZA (per USSG § 4A1.1(d) and the PSR reflects that he falls into the Criminal History Category of III. The maximum term of imprisonment is 10 years pursuant to 18 USC § 922(g)(1) and 18 USC § 924(a)(2). Thus, based upon his adjusted offense level of 17 and a criminal history category of III, the guideline imprisonment range is 30-37 months.

**D. Mr. Aziz Accepted Responsibility for His Offense.**

Not only did Mr. Aziz plead guilty in this case, but he has been completely truthful and forthcoming with all aspects surrounding this matter. In doing so, he has accepted full responsibility for the offense and assisted authorities in the investigation and prosecution of this misconduct.

**III. Other Considerations**

**A. Mr. Aziz Should be Recommended for 12-Month in a Half-Way House at End of Any Sentence of Incarceration.**

Undersigned Counsel respectfully ask this Court to sentence Mr. Aziz to a term of incarceration of 30 months, which reflects the low end of the guideline range. Such a sentence will enable him to be promptly placed in a half-way house to continue with counseling and education, and provide a strong incentive for him not to re-engage in this type of illegal conduct. However, if the Court imposes a longer term of incarceration, Counsel respectfully asks the Court to recommend 12 months in a half-way house at the end of any incarceration term imposed. The Second Chance Act of 2007, codified at 18 U.S.C. § 3624, increased the potential



length of time a federal inmate can be placed in a half-way house from 6 months to 12 months. *See* 18 U.S.C. § 3624 9c 0 91 0. The Bureau of Prisons will typically honor the Court's recommendation. If Mr. Aziz receives a sentence of incarceration, he would greatly benefit from the additional resources he would receive during twelve (12) months of half-way house placement (as opposed to just 6 months) as he transitions from incarceration back into society.

#### **IV. § 3553 Factors**

As this Court is aware the Sentencing Guidelines are merely one step in the process in determining an appropriate sentence for the Defendant. In addition, the Court is aware it should evaluate the factors listed in 18 U.S.C. § 3553(a) to determine a reasonable sentence for the Defendant. The Court must consider the following 3553 Factors: The nature and circumstances of the offense and the history of the Defendant; the need for the sentence imposed (considering seriousness of offense, deterrents, protecting the public, and providing the Defendant with needed treatment in the most effective matter); the types of sentences available; sentencing ranges; policy statements issued by the Sentencing Commission; need to avoid unwarranted sentencing disparities; and restitution to the victim of the offence. In support of Malik, please find letters of character reference from those who have know him the longest.

First, looking at the nature and circumstances of the current offense and the history of the Defendant, the Court should evaluate several factors. The Defendant accepted responsibility for his actions, and cooperated with an offer of assistance to the Government in this matter in that he plead to the charge. The Defendants timely notice to the Government of his intent to plead guilty to the indictment or charges, has saved the Government time, money and energy. The Defendant understands the seriousness of the crime he has committed and expresses his sincere remorse and apology. Malik has noted that he realizes he should not have been anywhere near a weapon. Indeed, he was not utilizing said weapon in any way shape or form. But he realizes his mere

possession of it in his vehicle is violative of the law and has stood up and accepted his responsibility therein. Malik Abdul Aziz further requests this Honorable Court consider his need to provide for his family and his cooperation and timely notification of his intent to plead guilty when determining an appropriate sentence for Malik Abdul Aziz.

The second factor to be evaluated by the Court is to assess the need for the sentence imposed. The Defendant acknowledges the seriousness of his action and understands the extensive incarceration time he may be facing. Malik Abdul Aziz has worked for the last several years in as a cook at Kentucky Fried Chicken as late as September 2018 prior to his arrest in this case. Prior to that he was also employed at Kim's Wings Restaurant as a cook, he has also previously worked at the Dollar Tree in shipping and receiving and the Farmer Mills Outlet clothing store as far back as 2017. Indeed, immediately after his prior imprisonment he received the job at Farmers Mill Outlet clothing store as greeter and maintained until better jobs came along. He has not made a consistent wage, but has helped out with his family. The Defendant requests that this Court consider the Defendants attempt to maintain gainful employment as a testament to his desire to refrain from illegal conduct and remain a productive citizen.

Thirdly, the Defendant requests this Court consider the over representation of his criminal history listed in the PSI. Malik Abdul Aziz has a total of 5 points due to his 2003 (some 17 years ago) for aggravated robbery, felonious assault, et al, as well as an additional 2 points due to having committed this offense while under supervision. Malik Abdul Aziz does not believe this incident properly represents his lack of criminal involvement throughout his 49 years.

Regarding the third and fourth factors of the 3553(a) the Court should review the kinds of sentences available. As noted above, Defendant requests this Court consider a sentence that is sufficient but not greater than necessary to fulfill the requirements of the 3553 factors. The Defendant believes an appropriate sentencing range would be between 30-37 months, if not

lower, based upon the over representation argument listed in the preceding paragraph.

Defendant believes a sentence that includes a mixture of incarceration plus alternatives, which include conditions of therapy and supervised release, would be most effective in reducing the risk of recidivism.

Finally, the Defendant requests the Court recommend a drug treatment program as noted in this Sentencing Memorandum.

## **V. Conclusion**

For the reasons discussed above, Mr. Aziz respectfully requests that the Court consider the factors highlighted in support of a sentence that is “sufficient but not greater than necessary” to achieve the statutory purposes of punishment, as required by 18 U.S.C. § 3553(a). Given the mitigating factors of Mr. Aziz’s offense, his personal history, and his amenability to rehabilitation, Mr. Aziz respectfully requests this Honorable Court impose a term of 30 months if not lower based upon the arguments herein and his age.



**DEFENDANT'S SENTENCING REQUEST**

Defendant, Malik Abdul Aziz respectfully requests that this Honorable Court issue a sentencing order, which includes the following:

1. A recommendation to the Bureau of Prisons that the Defendant be permitted to serve his term of incarceration at, USP Atlanta (facility), State of Georgia or any other facility close to his family in Atlanta, GA where a vocational programs will benefit the Defendant and prepare his for productive participation in the society upon his release; and,
2. The Court gives credit for all time served (since Federal custody). Also, to waive any discretionary fine and court costs because of his indigency; and,
3. A recommendation to the Bureau of Prisons that Malik Abdul Aziz, the Defendant be examined by a licensed professional and treated for matters for his health; and,
4. A recommendation to the Bureau of Prisons that Malik Abdul Aziz be permitted to participate in the 500 hour Residential Substance Abuse Treatment Program and other intensive programs for which he qualifies; and,
5. That he utilize 6800 Highway 85, Waverly Hall, GA 38189 as his residence when incarceration is completed and/or while at a half-way house.

Respectfully Submitted

/s/ rodger a. pelagalli \_\_\_\_\_  
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*Attorney for Defendant*

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of February 2020, a copy of foregoing Sentencing Memorandum was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's system.

Respectfully Submitted

/s/ rodger a. pelagalli  
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*Attorney for Defendant*



2-23-2020

Dear Judge

I've never written to a judge before so I'm kind of nervous! My name is Malik Hassani Amir Aziz, I'm 16 years of age. My dad has been gone 15 years of my life and for the last 18 months I've gotten to know him it has been a struggle for me, not having a father figure around, and most of my friends don't either. Now that my dad is around my life is not so hard as it once was I mean at least I have a father figure that wanted to be in my life, which is hard to kind of find now a days at first I was kind of mad at him until I found out that he wasn't out in the streets committing crimes like he use to I am kind of mad at my family for placing my dad in the position he's in now but since he past on I'm over it and I just want to see my dad back home wit our family I have had my share of trouble and my dad never gave up on my but encouraged me to do better and he always tells me Son be better than me, learn from my mistakes. Understanding that he should of not taken a chance by touching anybody's gun because it would possibly get him into trouble I get that, but is there any way that you can give him another chance at continuing to be a father to me and my sisters and the rest of our family I now see how important that my dad not only is to me but our whole family, especially my grandmother. Please give my dad some consideration since he was doing good out here, plus he has been locked up for 14 months already. Couldn't he just get credit for that time and come back home and finish his parole he was on? What ever you can do for him , we would be grateful Mr. Judge.

Thanks

Maliz Aziz

Dear Sudge

2-23-20

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I get that, but is there anyway that you can give him another chance at continuing to be a father to me and my sisters and the rest of our family? I now see how important that my dad not only is to me but our whole family, especially my Grand Mother. Please give my dad some consideration since he was doing good out here. Plus he has been locked up for 19 months already. Could it be just get credit for that time and come back home and finish his Parole he was on? What ever you can do for him, we would be grateful. The Judge

Thanks  
Malik Aziz



2/20/2020

Dear Judge

I am writing this letter on the behalf of my grandma and myself. She is older now and doesn't write very well anymore.

My name is Tanisha Thomas, the eldest daughter of Mr. Malik Aziz. Sir I lost my dad 16 years ago, after he was sentenced to 14 years in prison, that was a difficult time for my brother & sister and I. We were very angry at him for a while, but we realized he made some bad decisions in his life like 90% of the people we know including ourselves. We forgave him and have since been repairing our relationship with our dad, though it hasn't been easy, we are in a good place at this moment, however, our father is not an angel, he is a great person and doing the best to be the dad we have been missing all these years. He has always taught us family should stick together especially when their down.

Our Uncle Dannie had just had knee surgery, he wasn't able to get around for a few months, so my dad became his caretaker, cooking, helping him in and out of the bath, shopping etc. After a few months he was back on his feet but still needed help around the house, so daddy continued to help him and allowed him to use his car regularly. When Uncle Dannie found out dad had been arrested for having a gun, he realized he left his gun in Daddies car, so he called dad's PO Mrs. Mixion and informed her that the gun was his and he had left it in dads car and forgot about it, she told him if she was him she wouldn't say that in court because then he could get in trouble. Uncle told her he didn't want my dad to sit in jail for something that wasn't his. Daddy now realizes that he was wrong for trying to take the gun to Uncle Dannie, he just panicked when he saw it and wanted to get it out of his car, she he made a call to take it upstairs to him.

Our uncle past away a few months ago and we as a family pray that our father isn't taken away from us again 2 or more years behind this, he has been locked up for 14 months this month already and giving dad some more time again would be devastating to our family. I especially need my dad to help me endure some serious issues concerning my child.

My sister just had a baby 2 wks ago and my daughter is turning 4 this Aug. The both need their grandfather in their lives as well as my sister and litter brother. Please consider that dad was working everyday, taking care of his family and starting college the next semester, and despite the fact that he made a moments decision that was an incorrect one, he was doing well. HE didn't have any violations the 17 months on parole, also seeking to find a mentoring program for young men, my dad left the streets alone, he may not be perfect but he doesn't deserve prison time again, possible house arrest or giving him time served for the 14 months he has in would be appreciated by us all, if that's not too much to ask for. My dads 25 yrs in prison has wrecked our lives and impacted us in ways words can't express at this moment you have the power to affect our lives by your decision alone, so I plead with you to give my father another chance not to

catch up with the time he has missed with us, but to continue the bond we've established so far, we need his presence here, thank you from us all. Thank you.

Ms. Tanisha Thomas



Dear Judge

Feb 2/20/2020

I Am writing this letter on the behalf of my Grandma And myself, She is older now and doesnt write very well AnyMore.

My Name is Janisha Thomas, the eldest daughter of Mr. Malik Aziz. Sir I lost my dad 14 years ago, After he was sentenced to 14 years in prison, that was A difficult time for my Brother & Sister and I. We were very Angry At him for A while, but we realized he made some bad decisions in his life like 90% of the People we know including ourselves. We forgave him And have since been repairing our Relationship with our dad, though it hasnt been easy, we Are in A good place at this moment, however, our father is not an angel, he is a great person and doing the best to be the Dad we have been missing all these years. He has Always taught us family should stick together especially when their down.

Our uncle Dannie had just had knee surgery, he wasnt able to get around for a few months, so my dad became his caretaker, cooking, helping him in and out of the bath, shopping, ect. After a few months he was back on his feet but still needed help around the house, so daddy continued to help him and allowed him to use his car regularly. When Uncle Dannie found out Dad had been Arrested for having a gun, he realized he left his gun in Daddys car, so he called Dads P.O Mrs. Mixon and informed her that the gun was his And he had left it in Dads car And forgot About it, She told him, if she was him, she wouldnt say that in court because then he could get in trouble.

Uncle told her he didnt want my Dad to sit in jail for something that wasnt his.



Our uncle just Away A few Months Ago And we as a family pray that our father isn't taken Away from us again 2 or more years behind this, he had been locked up for 14 months this month already and giving Dad some more time again would be devastating to our family. I especially need my Dad to help me endure some serious issues concerning my child.

My Sister Just had A Baby 2 wks ago and my daughter is turning 4 this Aug. They both need their Grandfather in their lives as well as my Sister and little brother. Please Consider that Dad was working everyday, taking care of his family and Starting College the next semester, and despite the fact that he made a moments decision that was an incorrect one, He was doing well. HE didnt have any violations the 17 months on parole, also seeking to find a Mentoring program for young men, my Dad left the Streets alone, he may not be perfect but he doesnt deserve prison time again, Possible house arrest or giving him time served for the 14 months he has in would be appreciated By us all, if thats not too much to Ask for. my Dads 25 yrs in Prison has wrecked our lives and impacted us in ways words cant express, at this moment you have the power to affect our lives By your decision alone, So I plead with you to give my Father another chance not to catch up with the time he has missed with us, but to continue the Bond we've established so far, we need his presence here, Thank you from us all. Thank you

2-23-2020

Judge Nugent

Hi my name is Michael Beaman, Malik is my older brother, I believe the purpose for writing this character letter is not to paint a picture of some super good guy but to express to you how valuable his presence is to the family.

We have missed out on 25 years of his life due to his incarcerations. I'm 45 years old and my brother is 49, we are too old to be absent in our kids lives now. I have a daughter and 4 boys all between the ages of 4-14, now is the time that I need my big brother to help me keep our kids on the straight and narrow path, it does take a village!

I am proud to say that my brother has grown to be a wise man and has taught me a lot within the 18 months he's been home, our parents have missed him as much as our children and myself, and though it is only my opinion, I felt it was too dangerous for Malik and Uncle Dannie to be living in that area, but my brother was not going to leave a family member alone in that environment. And now my uncle is resting in peace all of that is over and we just want Malik back home, he is a brother, a father, a uncle and grandfather of two, and my mother talks to me about what it will do to her if she loses her oldest baby a third time, it is hard to watch my mother cry.

Please, judge him by his good and not his mistake and poor choices, because this is the best that I have seen my big brother and I'm proud of him, he is not the same person from 16 years ago, a lot older, a lot less hard head, still stubborn but a much better man. Thank you in advance!

Sincerely  
Mr. Michael Beaman



Judge Nugent

2/23/2020

Hi MY NAME IS MICHAEL BEAMAN, MALIK IS MY OLDER BROTHER, I BELIEVE THE PURPOSE FOR WRITING THIS CHARACTER LETTER IS NOT TO PAINT A PICTURE OF SOME SUPER GOOD GUY BUT TO EXPRESS TO YOU HOW VALUABLE HIS PRESENCE IS TO THE FAMILY.

WE HAVE MISSED OUT ON 25 YEARS OF HIS LIFE DUE TO HIS INCARCERATIONS. I'M 45 YEARS OLD AND MY BROTHER IS 49, WE ARE TOO OLD TO BE ABSENT IN OUR KIDS' LIVES NOW. I HAVE A DAUGHTER AND 4 BOYS ALL BETWEEN THE AGES OF 4-14, NOW IS THE TIME THAT I NEED MY BIG BROTHER TO HELP ME KEEP OUR KIDS ON THE STRAIGHT AND NARROW PATH, IT DOES TAKE A VILLAGE!

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Please, Judge him by his good and not his  
mistake and poor choices, because this is the Best  
that I have seen my Big Brother and I'm proud  
of him, he is not the same Person. From 16 years  
ago, a lot older, a lot less, hard head, still stubborn  
But A much better man. Thank you in Advance!

Sincerely  
Mr. Michael Benmar